

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:20 CV 168 MR WCM**

APRIL LEDFORD

Plaintiff,

v.

**BRYSON CITY POLICE
DEPARTMENT, CHRIS DUDLEY,
CURTIS COCHRAN, SWAIN COUNTY
SHERIFF'S DEPARTMENT, ANDREW
BRYANT, and TOWN OF BRYSON
CITY**

Defendants.

ORDER

This matter is before the Court on the Motion to Dismiss by Defendants Swain County Sheriff Curtis Cochran, Swain County Sheriff's Department, and Andrew Bryant (the "Motion to Dismiss," Doc. 7) and Plaintiff's Motion for Extension of Time to Answer Defendants' Motion to Dismiss (the "Motion for Extension," Doc. 13).

The Motion to Dismiss, which seeks dismissal of certain claims pursuant to Federal Rule of Civil Procedure 12(b)(6), was filed on August 10, 2020. Doc. 7. Eleven days later, on August 21, 2020, Plaintiff filed an Amended Complaint and the Motion for Extension. Docs. 12 & 13.

“A party may amend its pleading once as a matter of course within ... 21 days after service of a motion under Rule 12(b)....” Fed. R. Civ. Pro. 15(a)(1)(B). Because Plaintiff has amended her complaint within the time period provided by Rule 15(a)(1)(B), the Motion to Dismiss is now moot. See Thomas v. Cumberland County Board of Education, No. 5:10-cv-552, 2011 WL 3664891, at *1 (E.D.N.C. Aug. 18, 2011) (“Because plaintiff had ‘an absolute right to amend [her] complaint ... and need not [have sought] leave of court to do so’ her motion to amend must be ALLOWED. Defendant’s motion to dismiss the original complaint is DENIED AS MOOT, without prejudice to renewal.”) (quoting Galustian v. Peter, 591 F.3d 724, 730 (4th Cir. 2010) (modifications in Thomas)).

Plaintiff’s Motion for Extension is likewise moot.

IT IS THEREFORE ORDERED that Defendants’ Motion to Dismiss (Doc. 7) is **DENIED AS MOOT**.

IT IS FURTHER ORDERED that Plaintiff’s Motion for Extension of Time to Answer Defendants’ Motion to Dismiss (Doc. 13) is **DENIED AS MOOT**.

Signed: August 27, 2020



W. Carleton Metcalf
United States Magistrate Judge

